IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 825 of 2007.

Date of decision: 25.7.2007

Joginder Kumar ... Petitioner

Versus

State of H.P. & Ors. … Respondents

Coram :

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1] No.

For the Petitioner: Mr. C.N. Singh, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General, with Mr. R.M. Bisht, Deputy Advocate General, for respondents No. 1,2 & 5.

Respondent No.4, Babu Ram, in person.

Per V.K. Ahuja, J.:

By way of this writ petition, petitioner has prayed that the order dated 4.6.2007 issued by respondents No. 3 & 4 removing the petitioner from the post of Drawing Master be set aside and he should be allowed to continue on the said post.

Briefly stated the facts of the case are that vide resolution dated 20.5.2006 passed by the Committee formed by the PTA for the selection of the teachers, the petitioner's case for appointment under PTA was recommended to the PTA Association. An appointment letter was issued to the petitioner by respondent No. 3 and the petitioner joined as Drawing Teacher in Govt. Middle School, Loza, Tehsil Shillai,

[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Distt. Sirmour, H.P. On 24.8.2006, the petitioner was removed from the job on the ground that the diploma done by him in Arts from Deemed University was not recognized by the State of Himachal Pradesh. However, the State Government accorded recognition to the said diploma and the petitioner again applied for a Drawing Teacher and vide resolution dated 24.4.2007, his case was recommended for appointment as a Drawing Teacher and he was also issued appointment letter. New PTA Association was formed on 8.5.2007. It was alleged that the services of the petitioner were appreciated by respondent No. 5 as per the certificate issued by him as well as by B.D.C. Member and the petitioner was again appointed as a Drawing Teacher by PTA vide resolution dated 2.6.2007. However, without hearing the petitioner, resolution dated 4.6.2007 was passed that the working of the petitioner was not satisfactory and he was removed from the post of Drawing Master, hence the present writ petition.

A notice of the petition was issued to the respondents. No replies were filed by respondents No. 1,2 and 5, while respondent No. 4, Secretary of the PTA, filed his affidavit, which was taken on record. It is clear from the assertions made in the petition that neither the State Government nor the Principal of the School has controverted the allegations made in the petition duly supported by an affidavit of the petitioner. His working was found satisfactory even by respondent No. 5, Principal of the School as well as by the PTA, but still he was removed from the service. According to the Grant-in-aid to Parents Teacher Associations Rules, 2006, annexed with the case file, the Principal of the educational institution may allow teachers made available by the PTA to enter the premises and teach the students of the educational institution. The said teachers shall be under the

administrative control of the Principal. According to Rule-12, Grant-in-aid would be admissible only in respect of such teachers made available by the PTA whose work and conduct is found satisfactory by the Principal of the educational institution. These rules have been mentioned to show that the Principal has a prominent role to play in continuation of the said teachers appointed by the PTA. The recommendation for the appointment of the petitioner was made by the PTA Committee after taking interviews. A certificate issued by the Principal of the school is attached as Annexure P-5 with the writ petition, which shows that there was no complaint against the petitioner who worked sincerely and honestly in the school. No date is mentioned on this certificate which has not been challenged by the respondents by filing any reply supported by an affidavit. The petitioner has also attached a certificate issued by the Principal of the School dated 1.6.2007 that the petitioner is very honest, hard worker and punctual in his duties and his work and conduct is very good. Certificate issued by the Secretary of the PTA dated 7.6.2007 has also been attached with the petition that the petitioner is hardworking and sincere. However, inspite of these certificates issued by the Principal and others, resolution was passed on 3.6.2007 by the PTA that the work of the petitioner has not been found to be satisfactory and he should be removed from his post.

An affidavit has been filed by respondent No. 4, Secretary of the Parents Teacher Association that he was compelled by the PTA members to write resolution dated 3.6.2007 against the petitioner and he had also certified that the work and conduct of the petitioner was found to be satisfactory.

Keeping in view the above material placed on record by the petitioner including the assertions made by him in the writ petition duly supported by the affidavit, which have not been controverted by the respondents except respondent No. 4 who has supported the case of the petitioner, it is clear that the order passed for removal of service of the petitioner by respondents No. 3 and 4 is liable to be set aside, which is accordingly set aside. The petitioner shall continue working at his present post since he was allowed by an earlier interim order dated 18.6.2007 to continue functioning as a Drawing Teacher. The petitioner shall be liable to continue on his post until and unless regular appointment is made or his services are dispensed with in accordance with law. The writ petition is allowed accordingly with no order as to costs.

CMP No. 1420 of 2007:

In view of the orders passed in the main petition, this application also stands disposed of.

(Deepak Gupta),
Judge

(V.K. Ahuja),
Judge

July 25, 2007
(BSS)